

REMARKS

Claims 1-26 were rejected in the Final Office Action dated September 10, 2007 ("Final Office Action"). Claims 1, 3-8, 11-14, 16-21 and 24-26 were rejected under the doctrine of nonstatutory obviousness-type double patenting. Claims 1-3, 5-16, and 18-26 were rejected under 35 U.S.C. 103(a) as allegedly being obvious over United States Patent 5,708,845 ("Wistendahl") in view of United States Patent 5,873,076 ("Barr"), and in further view of United States Patent 5,987,460 ("Niwa"). Claims 4 and 17 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Wistendahl, Barr, and Niwa in view of United States Patent 6,243,676 ("Witteaman"). Claims 1 and 14 are amended. Claims 27-30 are new. Support for the claim amendments and new claims may be found in, for example, paragraphs 0058, 0065, 0071, 0077, 0080, and 0093-0102 of the specification.

For at least the following reasons, the rejections of all pending claims should be withdrawn and the claims should be passed to issue. While this paper is believed to completely address all pending rejections, Applicants reserve the right to set forth other reasons supporting the patentability of the claims, including reasons supporting the separate patentability of dependent claims not explicitly addressed herein, in future papers. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully requests that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

I. Double Patenting Rejection

The Examiner asserted that claims 1, 3-8, 11-14, 16-21 and 24-26 were rejected under the judicially created doctrine of “obviousness-type” double patenting with respect to claims 1-8, 10-19 and 21-22 of parent U.S. Patent No. 6,757,866. Applicants do not acquiesce with this basis of rejection. However, obviousness-type double patenting can be overcome by a timely filed terminal disclaimer. Applicants request that the filing of a terminal disclaimer, if necessary, be deferred until allowance of claims in the current application.

II. Section 103 Rejections

Claims 1-3, 5-16, and 18-26 were rejected under 35 U.S.C. 103(a) as allegedly being obvious over United States Patent 5,708,845 (“Wistendahl”) in view of United States Patent 5,873,076 (“Barr”), and in further view of United States Patent 5,987,460 (“Niwa”). Claims 4 and 17 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Wistendahl, Barr, and Niwa in view of United States Patent 6,243,676 (“Witteman”).

A. Obviousness

With respect to the present Section 103 rejections, the Examiner has failed to meet the burden of stating a prima facie case of obviousness. A prima facie case of obviousness requires that:

first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

MPEP, § 2143 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). However, as explained below, the combined references cited by the Examiner fail to teach or suggest all of the claim recitations.

B. Independent Claims 1 and 14

As amended, claims 1 and 14 each recite in part:

wherein the related documents are selected from a collection of documents according to scores associated with the documents, said scores for each document based on a summation of term scores for at least a subset of the terms of the selected text, the term score of a term proportional to an inverted document frequency of the term.

1. “the term score of a term proportional to an inverted document frequency of the term”

Wistendahl, Barr, and Niwa fail to teach or suggest that “the term score of a term [is] proportional to an inverted document frequency of the term.” In fact, Niwa teaches that each term is merely assigned a “one point” value. Specifically, Niwa teaches that “[e]ven if an identical keyword appears repeatedly in one document, one point is simply added or subtracted.” (Niwa, col. 4, lines 53-54.) Moreover, Niwa provides no teaching or suggestion related to inverted document frequencies. At best, Niwa teaches that “[t]he frequency ratio is a value of the document frequency divided by the total document frequency.” (Niwa, col. 9, lines 52-53.) Accordingly, the cited references fail to teach or suggest that “the term score of a term [is] proportional to an inverted document frequency of the term.”

Accordingly, the Section 103 rejection of claims 1 and 14, as well as the rejections of claims 2-13 and 15-30 depending respectively therefrom, should be withdrawn for at least these reasons.

C. Dependent Claims 27 and 29: “the term score of a term is additionally proportional to a term weight”

Dependent claim 27 depends from claim 1 and dependent claim 29 depends from claim 14. Accordingly, claims 27 and 29 respectively include all of the recitations of claims 1 and 14 and are therefore allowable for at least the reasons presented above with respect to the parent claims. Additionally, claims 27 and 29 each recite in part that “the term score of a term is additionally proportional to a term weight.” The combined references fail to teach or suggest this additional recitation.

Accordingly, the Section 103 rejections of claims 27 and 29 should be withdrawn for at least these additional reasons.

D. Dependent Claims 28 and 30: “the term score of a term is additionally proportional to a term frequency”

Dependent claim 28 depends from claim 27 and dependent claim 30 depends from claim 29. Accordingly, claims 28 and 30 respectively include all of the recitations of claims 1 and 27 and 14 and 29 and are therefore allowable for at least the reasons presented above with respect to the parent claims. Additionally, claims 28 and 30 each recite in part that “the term score of a term is additionally proportional to a term frequency.” The combined references fail to teach or suggest this additional recitation.

Accordingly, the Section 103 rejections of claims 28 and 30 should be withdrawn for at least these additional reasons.

CONCLUSION

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue. It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013, under order number 65632-0536 from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

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Respectfully submitted,

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